

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

SEAN O'TOOLE, KELLEY O'TOOLE,)
STEVEN DANIEL LEE, JENNIFER LYNN)
CURTIS, and JACK FOSTER,)

Plaintiffs,)

vs.)

No. CV-11-01502 PJH)

CITY OF ANTIOCH, ANTIOCH POLICE)
DEPARTMENT, JAMES HYDE, CHIEF OF)
ANTIOCH POLICE DEPARTMENT, NORMAN)
WIELSCH, JOSHUA VINCELET, JAMES)
WISECARVER JR., STEVEN AIELLO,)
AND DOES 1-20, inclusive,)

Defendants.)
_____)

DEPOSITION OF MATTHEW KOCH

Vallejo, California

March 17, 2015

ATKINSON-BAKER, INC.
COURT REPORTERS
(800) 288-3376
www.depo.com
REPORTER: LAURA AXELSEN, CSR 6173
FILE NO.: A902FA3

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

---oOo---

SEAN O'TOOLE, KELLEY O'TOOLE,)
STEVEN DANIEL LEE, JENNIFER LYNN)
CURTIS, and JACK FOSTER,)

Plaintiffs,)

vs.) No. CV-11-01502 PJH

CITY OF ANTIOCH, ANTIOCH POLICE)
DEPARTMENT, JAMES HYDE, CHIEF OF)
ANTIOCH POLICE DEPARTMENT, NORMAN)
WIELSCH, JOSHUA VINCELET, JAMES)
WISECARVER JR., STEVEN AIELLO,)
AND DOES 1-20, inclusive,)

Defendants.)
_____)

--oOo--

BE IT REMEMBERED THAT, pursuant to Notice and on
Tuesday, March 17, 2015 at 9:19 a.m. thereof at 521
Georgia Street, Vallejo, California, before me, LAURA
AXELSEN, a Certified Shorthand Reporter, personally
appeared

MATTHEW KOCH,
called as a witness by the plaintiffs.

---oOo---

1 THE WITNESS: Not necessarily. 09:56:12

2 MR. PORI: Q. Can you give me some

3 instances where you would not write a report when you

4 respond to a location to assist an officer with the use

5 of your K-9? 09:56:21

6 A. Uhm, what do you mean, like --

7 Q. Well, under what circumstances would it --

8 would you not write a report if you had come to assist a

9 police officer, another officer, with your dog?

10 A. Oh, with -- with my dog? 09:56:39

11 Q. Yeah.

12 A. Uhm --

13 MR. BLECHMAN: Overbroad. Incomplete

14 hypothetical. You can respond.

15 THE WITNESS: It could be doing an article 09:56:49

16 search of a certain location to where either it may have

17 been or may not have been and nothing was found or, uhm,

18 a missing juvenile or missing persons, and you tried to

19 do a trail, and it revealed to unsuccessful.

20 MR. PORI: Q. Okay. So is it fair to say 09:57:14

21 that the City of Antioch does not require a report be

22 written whenever there's a response to a particular

23 location, uhm, when you're -- when you're bringing your

24 K-9 with you?

25 A. It's not necessarily required all the time, 09:57:26

1 no. 09:57:29

2 Q. So how is it determined under what

3 circumstances a report should be written -- written and

4 the circumstances under which a report should not be

5 written? 09:57:37

6 A. I think it's more of a case-by-case situation

7 as far as what is presented in front of you and what is

8 needed to be documented.

9 Q. Okay. Uhm, by the time that you had arrived,

10 had Detective Vincelet told you how he found a -- a safe 09:58:01

11 near the console where your dog alerted to?

12 A. I don't recall.

13 Q. Were -- were you there when he located the

14 safe?

15 A. I don't recall. 09:58:19

16 Q. Okay.

17 MR. BLECHMAN: He being Vincelet?

18 MR. PORI: Q. Yeah, Vincelet.

19 Did you participate in the investigation of a

20 shooting of David Lopez? 09:58:45

21 A. Yes.

22 Q. In the City of -- what do you know about your

23 investigation regarding the shooting of David Lopez?

24 A. I was one of the involved officers.

25 Q. What did you do during the investigation in 09:59:00

1 decision about whether or not to write a report 10:50:35
2 pertaining to your involvement is left up with you?

3 A. I think it's left up to the individual officer
4 and the totality of the circumstances.

5 Q. Is that part of your training about when -- 10:50:50
6 when to write a report and when not to write a report?

7 A. I guess it could be, yeah. I don't know. I
8 mean, what are -- what are you referring to? Is it,
9 like, training --

10 Q. Well, you say it can be depending on the 10:51:13
11 circumstances, right?

12 A. Right.

13 Q. Whether it -- left up to the officer to
14 determine based on the totality of the circumstances
15 whether to write a report; is that your testimony? 10:51:21

16 A. Yes.

17 Q. Okay. So how is it a decision is made whether
18 or not based upon the totality of the circumstances
19 it's -- it is required to write -- that an officer write
20 a report? 10:51:32

21 A. It's based on facts, what -- what has
22 transpired, what is located, what is seen, what is heard
23 as far as the relevance of the overall subject matter.

24 Q. Okay. Who makes the call about whether or not
25 the officer's conduct is relevant -- sufficiently 10:51:52

1 relevant to require a -- a writing of a report? 10:51:55

2 A. It could --

3 MR. BLECHMAN: Incomplete -- incomplete

4 hypothetical. Vague. Ambiguous. Overbroad. Go ahead.

5 THE WITNESS: It could be individual. It 10:52:02

6 could be your -- the other officer that's present. It

7 could be a supervisor. Uhm, it could be just about

8 anyone. I mean --

9 MR. PORI: Q. But no written policy about

10 report writing and -- there is no written report 10:52:23

11 policy -- there is no written policy about report

12 writing at the Antioch Police Department; is that fair

13 to say?

14 A. You know, I don't recall.

15 Q. When was the last time you looked at your 10:52:51

16 Antioch Police Department regulations manual?

17 A. Uhm, been a couple of months at least.

18 Q. Okay. And do you know if there's anything

19 there about report writing?

20 MR. BLECHMAN: Overbroad. Vague and 10:53:13

21 ambiguous. You can respond.

22 MR. PORI: Q. In the Antioch Police

23 Department regulations manual, is there anything in

24 there about report writing?

25 MR. BLECHMAN: Same objection. 10:53:19

1 CERTIFICATE

2 I, the undersigned, a Certified Shorthand
3 Reporter, State of California, hereby certify that the
4 witness in the foregoing deposition was by me first duly
5 sworn to testify to the truth, the whole truth, and
6 nothing but the truth in the within-entitled cause; that
7 said deposition was taken at the time and place therein
8 stated; that the testimony of the said witness was
9 reported by me, a disinterested person, and was
10 thereafter transcribed under my direction into
11 typewriting; that the foregoing is a full, complete, and
12 true record of said testimony; and that the witness was
13 given an opportunity to read it and, if necessary,
14 correct said deposition and to subscribe the same; that
15 prior to the completion of the foregoing
16 deposition, review of the transcript was requested.

17 I further certify that I am not of counsel or
18 attorney for either or any of the parties in the
19 foregoing deposition and caption named, nor in any way
20 interested in the outcome of the cause named in said
21 caption.



22 Executed this 27th day of March, 2015.

23
24 
25 LAURA AXELSEN, C.S.R. 6173